

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

BRANDY DELOACH, et al.

Plaintiffs,

v.

TERRY STEVENS, et al.

Defendants.

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No. 1:19CV57 RLW

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Add Party Plaintiffs Out of Time (ECF No. 27). This case is a wrongful death action that Plaintiff filed on behalf of her deceased husband, John D. Deloach. The classes of people who may bring a wrongful death action are defined in 537.080, R.S. Mo. Plaintiff recently located Mr. Deloach's two other minor children, who are within the class of people who can bring a wrongful death action under 537.080, R.S. Mo. In December 2019, Plaintiff's counsel located Mr. Deloach's parents, Jacqueline Deloach and Bill Deloach, who are also members of the classes of persons eligible to bring a wrongful death action. Plaintiff seeks to add the minor children and Mr. Deloach's parents as party plaintiffs to this action. Plaintiff notes that failure to previously locate these individuals was not due to any dilatory action and that excluding them from this case will prevent "full presentation of the evidence supporting the plaintiff's action." (ECF No. 27 at 3). In response, Defendants argue that Plaintiff's motion comes nearly six months after the deadline to add parties and does not demonstrate good cause for Plaintiff's failure to previously locate these additional parties. (ECF No. 28 at 3-4). Defendants also assert that they would be prejudiced by belatedly adding these new plaintiffs. Instead, Defendants claim the new plaintiffs would not be prejudiced because the Court can apportion a

verdict among those persons entitled thereto in proportion to the losses suffered by each as determined by the Court, even without those persons joining in the action. 537.095.3, R.S. Mo.

The Court grants Plaintiff's Motion for Leave to Add Party Plaintiffs Out of Time (ECF No. 27). The Court finds that Plaintiff has demonstrated good cause to add these new plaintiffs to ensure full participation by all affected parties and to avoid piecemeal litigation. The Court finds justice requires inclusion of all available plaintiffs to litigate this wrongful death action. The Court further finds that Defendants have not demonstrated prejudice by inclusion of these additional parties. Defendants have not identified how their defense and this case will be impacted other than through additional discovery regarding these new plaintiffs (ECF No. 28 at 4), which would likely have to be done in any event. The Court can remedy any perceived prejudice through reasonable amendment of the case management order upon the parties' request.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to Add Party Plaintiffs Out of Time (ECF No. 27) is **GRANTED**.

Dated this 6th day of February, 2020.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE